

107TH CONGRESS
1ST SESSION

H. R. 2597

To amend the Internal Revenue Code of 1986 to provide incentives to ensure that all Americans gain timely and equitable access to the Internet and to promote employer and employee participation in telework arrangements.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2001

Mr. MCINNIS (for himself, Mr. TANNER, Mr. FOLEY, and Mr. BLAGOJEVICH) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives to ensure that all Americans gain timely and equitable access to the Internet and to promote employer and employee participation in telework arrangements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Deploy-
5 ment and Telework Incentive Act of 2001”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The Internet has been the single greatest
2 contributor to the unprecedented economic expansion
3 experienced by the United States over the last 8
4 years.

5 (2) Today, most residential Internet users, es-
6 pecially those located in rural and urban areas, are
7 extremely limited in the type of information they can
8 send and receive over the Internet because their
9 means of access is limited to “narrowband” commu-
10 nications media, typically conventional phone lines at
11 a maximum speed of 56,000 bits per second.

12 (3) Similarly, small businesses in rural and
13 urban areas are also deprived of full information ac-
14 cess because of their dependence on narrowband fa-
15 cilities.

16 (4) The result is a growing disparity in the
17 speed of access to the Internet and the opportunities
18 it creates between subscribers located in certain
19 rural and urban areas and subscribers located in
20 other areas.

21 (5) The disparity in current broadband access
22 to the Internet and the slow pace of deployment of
23 broadband capability in certain areas will likely
24 prove detrimental to the on-going economic expan-
25 sion.

1 (6) Federal, State, and local governments spend
2 billions of dollars annually on the Nation's transpor-
3 tation needs.

4 (7) Congestion on the Nation's roads costs over
5 \$74,000,000,000 annually in lost work time, fuel
6 consumption, and costs of infrastructure and equip-
7 ment repair.

8 (8) On average on-road-vehicles contribute 30
9 percent of nitrogen oxides emissions.

10 (9) It is estimated that staying at home to work
11 requires 3 times less energy consumption than com-
12 muting to work.

13 (10) It was recently reported that if an identi-
14 fied 10 to 20 percent of commuters switched to tele-
15 working, 1,800,000 tons of regulated pollutants
16 would be eliminated, 3,500,000,000 gallons of gas
17 would be saved, 3,100,000,000 hours of personal
18 time would be freed up, and maintenance and infra-
19 structure costs would decrease by \$500,000,000 an-
20 nually because of reduced congestion and reduced
21 vehicle miles traveled.

22 (11) The average American daily commute is
23 62 minutes for a 44-mile round-trip (a total of 6
24 days per year and 5,808 miles per year).

1 (12) The increase in work from 1969 to 1996,
2 the increase in hours mothers spend in paid work,
3 combined with a shift toward single-parent families
4 resulted in families on average experiencing a de-
5 crease of 22 hours a week (14 percent) in parental
6 time available outside of paid work they could spend
7 with their children.

8 (13) Companies with teleworking programs
9 have found that teleworking can boost employee pro-
10 ductivity 5 percent to 20 percent.

11 (14) Today 60 percent of the workforce is in-
12 volved in information work (an increase of 43 per-
13 cent since 1990) allowing and encouraging decen-
14 tralization of paid work to occur.

15 (15) In recent years, studies performed in the
16 United States have shown a marked expansion of
17 teleworking, with an estimate of 19,000,000 Ameri-
18 cans teleworking by the year 2002, 5 times the
19 amount in 1990.

20 (16) It is, therefore, appropriate for Congress
21 to take action to narrow the current and future dis-
22 parity in the level of broadband access to the Inter-
23 net, to accelerate deployment of broadband capa-
24 bility, and to promote broad employer and employee
25 participation in telework arrangements.

1 (b) PURPOSE.—The purpose of this Act is to accel-
 2 erate deployment of broadband access to the Internet for
 3 those Americans located in certain rural and urban areas
 4 and to promote employer and employee participation in
 5 telework arrangements.

6 **SEC. 3. CREDIT FOR TELEWORKING.**

7 (a) IN GENERAL.—Subpart B of part IV of sub-
 8 chapter A of chapter 1 of the Internal Revenue Code of
 9 1986 (relating to foreign tax credit, etc.) is amended by
 10 inserting after section 30A the following new section:

11 **“SEC. 30B. TELEWORK CREDIT.**

12 “(a) GENERAL RULE.—There shall be allowed as a
 13 credit against the tax imposed by this chapter for any tax-
 14 able year an amount equal to the sum of—

15 “(1) the employer telework tax credit, plus

16 “(2) the telework equipment tax credit.

17 “(b) EMPLOYER TELEWORK TAX CREDIT;
 18 TELEWORK EQUIPMENT TAX CREDIT.—For purposes of
 19 this section—

20 “(1) EMPLOYER TELEWORK TAX CREDIT.—Ex-
 21 cept as provided for in subsection (c)(1), the em-
 22 ployer telework tax credit for any taxable year is
 23 equal to \$500 for each employee who participates
 24 in an employer sponsored telework arrangement dur-
 25 ing the taxable year.

1 “(2) TELEWORK EQUIPMENT TAX CREDIT.—

2 Except as provided for in subsection (c)(2), the
3 telework equipment tax credit for any taxable year
4 is equal to 10% of qualified telework expenses paid
5 or incurred during the taxable year by either the em-
6 ployer on behalf of the employee, or directly by the
7 employee, pursuant to an employer sponsored
8 telework arrangement.

9 “(c) SPECIAL RULE FOR DISABLED EMPLOYEES AND
10 EMPLOYEES OF SMALL BUSINESSES.—For purposes of
11 this section—

12 “(1) For each employee who is covered under
13 the Americans with Disabilities Act of 1990 (42
14 U.S.C. 1201), or for each employee of a small busi-
15 ness, the employer telework tax credit for any tax-
16 able year is equal to \$1,000 for each employee who
17 participates in an employer sponsored telework ar-
18 rangement during the taxable year.

19 “(2) For each employee who is covered under
20 the Americans with Disabilities Act of 1990 (42
21 U.S.C. 1201), or for each employee of a small busi-
22 nesses, the telework equipment tax credit for any
23 taxable year is equal to 20% of qualified telework
24 expenses paid or incurred during the taxable year by
25 either the employer on behalf of the employee, or di-

1 rectly by the employee, pursuant to an employer
2 sponsored telework arrangement.

3 “(d) CREDIT ADJUSTMENTS AND LIMITATIONS.—

4 “(1) CREDIT ADJUSTMENTS.—In computing the
5 credit allowed under subsection (b)(1) or (c)(1) for
6 any taxable year, the following adjustments shall
7 apply—

8 “(A) In the case of an employee who par-
9 ticipates in an employer sponsored telework ar-
10 rangement for less than the full taxable year,
11 the credit amount identified in subsection (b)(1)
12 or (c)(1), whichever is applicable, shall be mul-
13 tiplied by a fraction, the numerator of which is
14 the total number of months in the taxable year
15 that the employee participates in an employer
16 sponsored telework arrangement and the de-
17 nominator of which is 12. For purposes of the
18 preceding sentence, an employee is considered
19 to be participating in an employer sponsored
20 telework arrangement for a month if the em-
21 ployee teleworks for at least one day of such
22 month.

23 “(B) In the case of an employee who par-
24 ticipates in an employer sponsored telework ar-
25 rangement but does not telework every day of

1 the taxable year that the employee is required
2 by his or her employer to work, the credit
3 amount identified in subsection (b)(1) or (c)(1),
4 whichever is applicable, shall be multiplied by a
5 fraction, the numerator of which is the total
6 number days in the taxable year that the em-
7 ployee teleworks and the denominator of which
8 is the total number of days in the taxable year
9 that the employee is required by his or her em-
10 ployer to work.

11 “(2) CREDIT LIMITATIONS.—

12 “(A) Except as otherwise provided in sub-
13 paragraph (2)(B) of this subsection, in com-
14 puting the credit allowed under subsection
15 (b)(2) or (c)(2) for any taxable year the fol-
16 lowing limitations shall apply—

17 “(i) The maximum credit claimed by
18 any employer with respect to qualified
19 telework expenses paid or incurred on be-
20 half of an employee shall not exceed \$500
21 for each employee who participates in an
22 employer sponsored telework arrangement.

23 “(ii) The maximum credit claimed by
24 any employee with respect to qualified
25 telework expenses paid or incurred directly

1 by the employee pursuant to an employer
2 sponsored telework arrangement shall not
3 exceed \$500.

4 “(B) In computing the credit allowed
5 under subsection (c)(2) for any taxable year
6 with respect to employees who are covered
7 under the Americans with Disabilities Act of
8 1990 (42 U.S.C. 1201), or for each employee of
9 a small business, the following limitations shall
10 apply—

11 “(i) The maximum credit claimed by
12 any employer with respect to qualified
13 telework expenses paid or incurred on be-
14 half of an employee shall not exceed
15 \$1,000 for each employee who participates
16 in an employer sponsored telework ar-
17 rangement.

18 “(ii) The maximum credit claimed by
19 any employee with respect to qualified
20 telework expenses paid or incurred directly
21 by the employee pursuant to an employer
22 sponsored telework arrangement shall not
23 exceed \$1,000.

24 “(e) DEFINITIONS.—For purposes of this section—

1 “(1) EMPLOYER SPONSORED TELEWORK AR-
2 RANGEMENT.—The term ‘employer sponsored
3 telework arrangement’ means an arrangement estab-
4 lished by an employer that enables employees of the
5 employer to telework for a minimum of 25 days per
6 taxable year. Such an arrangement shall be sup-
7 ported by a written agreement between the employer
8 and each teleworking employee that describes the
9 terms of the employer sponsored telework arrange-
10 ment.

11 “(2) QUALIFIED TELEWORK EXPENSES.—

12 “(A) IN GENERAL.—The term ‘qualified
13 telework expenses’ shall include, but not be lim-
14 ited to, expenses paid or incurred for com-
15 puters, computer-related hardware and soft-
16 ware, modems, data processing equipment, tele-
17 communications equipment, and access to Inter-
18 net or broadband technologies, including appli-
19 cable taxes and other expenses for the delivery,
20 installation, or maintenance of such equipment.

21 “(B) ONLY CERTAIN EXPENSES TAKEN
22 INTO ACCOUNT.—Expenses shall be taken into
23 account under subparagraph (A) only to the ex-
24 tent they are authorized by the employer pursu-
25 ant to an employer sponsored telework arrange-

1 ment and are necessary to enable the employee
2 to telework.

3 “(3) SMALL BUSINESS.—The term ‘small busi-
4 ness’ means a business with an average of 100 or
5 fewer employees during the taxable year.

6 “(4) TELEWORK.—The term ‘telework’ means
7 to perform normal and regular work functions at lo-
8 cations other than the traditional work place of the
9 employer thereby eliminating or substantially reduc-
10 ing the physical commute to and from that tradi-
11 tional work place.

12 “(f) SPECIAL RULES.—

13 “(1) LIMITATION BASED ON AMOUNT OF
14 TAX.—

15 “(A) LIABILITY FOR TAX.—The credit al-
16 lowable under subsection (a) for any taxable
17 year shall not exceed the excess (if any) of—

18 “(i) the regular tax for the taxable
19 year, reduced by the sum of the credits al-
20 lowable under subpart A and the preceding
21 sections of this subpart, over

22 “(ii) the tentative minimum tax for
23 the taxable year.

24 “(B) CARRYFORWARD OF UNUSED CRED-
25 IT.—If the amount of the credit allowable under

1 subsection (a) for any taxable year exceeds the
2 limitation under paragraph (1)(A) for the tax-
3 able year, the excess shall be carried to the suc-
4 ceeding taxable year and added to the amount
5 allowable as a credit under subsection (a) for
6 such succeeding taxable year.

7 “(2) BASIS REDUCTION.—The basis of any
8 property for which a credit is allowable under sub-
9 section (a) shall be reduced by the amount of such
10 credit (determined without regard to paragraph (1)).

11 “(3) RECAPTURE.—The Secretary shall, by reg-
12 ulations, provide for recapturing the benefit of any
13 credit allowable under subsection (a) with respect to
14 any property which ceases to be property eligible for
15 such credit.

16 “(4) PROPERTY USED OUTSIDE UNITED
17 STATES, ETC., NOT QUALIFIED.—No credit shall be
18 allowed under subsection (a) with respect to any
19 property referred to in section 50(b) or with respect
20 to the portion of the cost of any property taken into
21 account under section 179.

22 “(5) ELECTION NOT TO TAKE CREDITS.—No
23 credits shall be allowed under subsection (a) for any
24 expense if the taxpayer elects to not have this sec-
25 tion apply with respect to such expense.

1 “(6) DENIAL OF DOUBLE BENEFIT.—No deduc-
 2 tion or credit (other than under this section) shall
 3 be allowed under this chapter with respect to any ex-
 4 pense which is taken into account in determining the
 5 credit under this section.

6 “(7) DOCUMENTATION.—Employers and em-
 7 ployees are responsible for maintaining adequate
 8 documentation to support any credits claimed under
 9 this section.”

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for subpart B of part IV of subchapter A of chapter 1
 12 of such Code is amended by inserting after the item relat-
 13 ing to section 30A the following new item:

 “Sec. 30B. Telework credit.”

14 (c) REGULATORY MATTERS.—

15 (1) PROHIBITION.—No Federal or State agency
 16 or instrumentality shall adopt regulations or rate-
 17 making procedures that would have the effect of
 18 confiscating any credit or portion thereof allowed
 19 under sections 30B of the Internal Revenue Code of
 20 1986 (as added by this Act) or otherwise subverting
 21 the purpose of this Act.

22 (2) TREASURY REGULATORY AUTHORITY.—It is
 23 the intent of Congress in providing the telework tax
 24 credit under section 30B of the Internal Revenue
 25 Code of 1986 (as added by this Act) to promote

1 broad participation in employer sponsored telework
2 arrangements by providing incentives to both em-
3 ployers and employees. Accordingly, the Secretary of
4 the Treasury shall prescribe such regulations as may
5 be necessary or appropriate to carry out the pur-
6 poses of section 30B of such Code, including regula-
7 tions describing the information, records, and data
8 that employers and employees are required to pro-
9 vide the Secretary to substantiate compliance with
10 the requirements of section and 30B of such Code.
11 Until the Secretary prescribes such regulations, em-
12 ployers and employees may base such determinations
13 on any reasonable method that is consistent with the
14 purposes of section 30B of such Code.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall be effective for the taxable years begin-
17 ning after December 31, 2001.

18 **SEC. 4. DEDUCTION FOR CERTAIN DEPRECIABLE BUSINESS**
19 **ASSETS.**

20 (a) IN GENERAL.—Part VI of Subchapter B of chap-
21 ter 1 of the Internal Revenue Code of 1986 (relating to
22 itemized deductions for individuals and corporations) is
23 amended by inserting after section 179A the following new
24 section:

1 **“SEC. 179B. DEDUCTION FOR BROADBAND TELECOMMUNI-**
2 **CATION EQUIPMENT.**

3 “(a) GENERAL RULE.—A taxpayer may elect to treat
4 as an expense the cost of any qualified equipment capable
5 of providing current generation broadband services to
6 rural subscribers or urban subscribers. Any cost so treated
7 shall be allowed as a deduction for the taxable year in
8 which the cost is paid or incurred by the taxpayer.

9 “(b) ELECTION.—

10 “(1) An election under this section for any tax-
11 able year shall—

12 “(A) specify the qualified equipment and
13 associated cost to which the election applies,
14 and

15 “(B) be made on the taxpayer’s return of
16 the tax imposed by this chapter for the taxable
17 year.

18 “Such election shall be made in such manner as the Sec-
19 retary may by regulations prescribe.

20 “(2) ELECTION IRREVOCABLE.—Any election
21 made under this section may not be revoked without
22 the consent of the Secretary.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) CABLE OPERATOR.—The term ‘cable oper-
25 ator’ has the meaning given such term by section

1 602(5) of the Communications Act of 1934 (47
2 U.S.C. 522(5)).

3 “(2) COMMERCIAL MOBILE SERVICE CAR-
4 RIER.—The term ‘commercial mobile service carrier’
5 means any person authorized to provide commercial
6 mobile radio service as defined in section 20.3 of
7 title 47, Code of Federal Regulations.

8 “(3) COST.—

9 “(A) IN GENERAL.—The term ‘cost’ means
10 any amount that may otherwise be chargeable
11 to a capital account with respect to the pur-
12 chase, upgrade, maintenance, or installation of
13 qualified equipment, that is incurred after De-
14 cember 31, 2001 and before January 1, 2007.

15 “(B) CERTAIN SATELLITE EXPENDITURES
16 EXCLUDED.—The term ‘cost’ shall not include
17 any expenditure with respect to the launching
18 or insuring of any satellite equipment.

19 “(4) CURRENT GENERATION BROADBAND SERV-
20 ICE.—The term ‘current generation broadband serv-
21 ice’ means the transmission of signals at a rate of
22 at least 1,000,000 bits per second to the subscriber
23 and at least 128,000 bits per second from the sub-
24 scriber.

1 “(5) NONRESIDENTIAL SUBSCRIBER.—The
2 term ‘nonresidential subscriber’ means a subscriber
3 who purchases current generation broadband service
4 which are delivered to the permanent place of busi-
5 ness of such subscriber.

6 “(6) OPEN VIDEO SYSTEM OPERATOR.—The
7 term ‘open video system operator’ means any person
8 authorized to provide service under section 653 of
9 the Communications Act of 1934 (47 U.S.C. 573).

10 “(7) OTHER WIRELESS CARRIER.—The term
11 ‘other wireless carrier’ means any person (other than
12 a telecommunications carrier, commercial mobile
13 service carrier, cable operator, open video system op-
14 erator, or satellite carrier) providing current genera-
15 tion broadband services to subscribers through the
16 radio transmission of energy.

17 “(8) QUALIFIED EQUIPMENT.—

18 “(A) IN GENERAL.—The term ‘qualified
19 equipment’ means equipment capable of pro-
20 viding current generation broadband service to
21 each subscriber who is utilizing such service.

22 “(B) ONLY CERTAIN EQUIPMENT TAKEN
23 INTO ACCOUNT.—Qualified equipment shall be
24 taken into account under subparagraph (A)
25 only to the extent it—

1 “(i) is located on or within a central
2 switching office, cable hub, head end, or
3 other similar network gateway or delivery
4 point,

5 “(ii) extends from the subscriber side
6 of the point or points described in (B)(i) to
7 the outside of the unit, building, dwelling,
8 or office owned or leased by a subscriber,
9 or

10 “(iii) is located on the outside of the
11 unit, building, dwelling, or office owned or
12 leased by a subscriber.

13 “(9) RURAL AREA.—The term ‘rural area’
14 means any census tract—

15 “(A) which is not within 10 miles of any
16 incorporated or census designated place con-
17 taining more than 25,000 people and is not
18 within a county or county equivalent which has
19 an overall population density of more than 500
20 people per square mile of land,

21 “(B) that is designated as a rural enter-
22 prise community or rural empowerment zone by
23 the Secretary of Agriculture pursuant to section
24 1391, or

1 “(C) that is designated by Congress as a
2 rural area for purposes of this section.

3 “(10) RURAL SUBSCRIBER.—The term ‘rural
4 subscriber’ means a residential subscriber residing in
5 a dwelling located in a rural area or nonresidential
6 subscriber maintaining a permanent place of busi-
7 ness located in a rural area.

8 “(11) SATELLITE CARRIER.—The term ‘sat-
9 ellite carrier’ means any person using the facilities
10 of a satellite or satellite service licensed by the Fed-
11 eral Communications Commission and operating in
12 the Fixed-Satellite Service under part 25 of title 47
13 of the Code of Federal Regulations or the Direct
14 Broadcast Satellite Service under part 100 of title
15 47 of such Code to establish and operate a channel
16 of communications for point-to-multipoint distribu-
17 tion of signals, and owning or leasing a capacity or
18 service on a satellite in order to provide such point-
19 to-multipoint distribution.

20 “(12) SUBSCRIBER.—The term ‘subscriber’
21 means a person who purchases current generation
22 broadband service from a taxpayer.

23 “(13) TAXPAYER.—The term ‘taxpayer’
24 means—

25 “(A) a cable operator,

1 “(B) a commercial mobile service carrier,

2 “(C) an open video system operator, or

3 “(D) a satellite carrier, telecommunications
4 carrier, or other wireless carrier.

5 “(14) TELECOMMUNICATIONS CARRIER.—The
6 term ‘telecommunications carrier’ has the meaning
7 given such term by section 3(44) of the Communica-
8 tions Act of 1934 (47 U.S.C. 153 (44)), but—

9 “(A) includes all members of an affiliated
10 group of which a telecommunications carrier is
11 a member, and

12 “(B) does not include a commercial mobile
13 service carrier.

14 “(15) URBAN AREA.—The term ‘urban area’
15 means any census tract—

16 “(A) the poverty level of which is at least
17 30% (based on the most recent census data),

18 “(B) the median family income of which
19 does not exceed—

20 “(i) in the case of a census tract lo-
21 cated in a metropolitan statistical area, 70
22 percent of the greater of the metropolitan
23 area median family income or the state-
24 wide median family income, or

1 “(ii) in the case of a census tract lo-
2 cated in a nonmetropolitan statistical area,
3 70% of the nonmetropolitan statewide me-
4 dian family income,

5 “(C) that is designated as an urban enter-
6 prise community or urban empowerment zone
7 by the Secretary of Housing and Urban Devel-
8 opment pursuant to section 1391,

9 “(D) that represents the District of Co-
10 lumbia Enterprise Zone established under sec-
11 tion 1400,

12 “(E) that is designated as a renewal com-
13 munity pursuant to section 1400E,

14 “(F) that is designated as a low-income
15 community pursuant to section 45D, or

16 “(G) that is designated by Congress as an
17 urban area for purposes of this section.

18 “(16) URBAN SUBSCRIBER.—The term ‘urban
19 subscriber’ means a residential subscriber residing in
20 a dwelling located in an urban area or nonresidential
21 subscriber maintaining a permanent place of busi-
22 ness located in an urban area.

23 “(d) DESIGNATION OF CENSUS TRACTS.—The Sec-
24 retary shall, not later than 90 days after the date of the
25 enactment of this section, designate and publish those cen-

1 sus tracts meeting the criteria described in paragraphs (9)
 2 and (15) of subsection (c).”

3 (b) CLERICAL AMENDMENT.—The table of sections
 4 for part VI of subchapter B of chapter 1 of such Code
 5 is amended by inserting after the item relating to section
 6 179A the following new item:

“Sec. 179B. Deduction for broadband telecommunications equip-
 ment.”

7 (c) REGULATORY MATTERS.—

8 (1) PROHIBITION.—No Federal or State agency
 9 or instrumentality shall adopt regulations or rate-
 10 making procedures that would have the effect of
 11 confiscating any expense or portion thereof allowed
 12 under section 179B of the Internal Revenue Code of
 13 1986 (as added by this section) or otherwise sub-
 14 verting the purpose of this section.

15 (2) TREASURY REGULATORY AUTHORITY.—It is
 16 the intent of Congress in providing the expense
 17 under section 179B of the Internal Revenue Code of
 18 1986 (as added by this section) to provide incentives
 19 for the purchase, installation, and connection of
 20 equipment and facilities offering expanded
 21 broadband access to the Internet for users in certain
 22 rural and urban areas of the United States in a
 23 manner that maintains competitive neutrality among
 24 the various classes of providers of broadband serv-

1 ices. Accordingly, the Secretary of the Treasury shall
2 prescribe such regulations as may be necessary or
3 appropriate to carry out the purposes of section
4 179B of such Code, including—

5 (A) regulations to determine how and when
6 a taxpayer that incurs qualified expenditures
7 satisfies the requirements of section 179B of
8 such Code to provide broadband services, and

9 (B) regulations describing the information,
10 records, and data taxpayers are required to pro-
11 vide the Secretary to substantiate compliance
12 with the requirements of section 179B of such
13 Code.

14 Until the Secretary prescribes such regulations, tax-
15 payers may base such determinations on any reason-
16 able method that is consistent with the purposes of
17 section 179B of such Code.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to expenditures incurred after De-
20 cember 31, 2001.

21 **SEC. 5. BROADBAND CREDIT.**

22 (a) IN GENERAL.—Subpart E of part IV of chapter
23 1 of the Internal Revenue Code of 1986 (relating to rules
24 for computing investment credit) is amended by inserting
25 after section 48 the following new section:

1 **“SEC. 48A. BROADBAND CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 46, the
3 broadband credit for any taxable year is equal to 20 per-
4 cent of the cost of qualified equipment capable of pro-
5 viding next generation broadband services to rural sub-
6 scribers or urban subscribers. Qualified expenditures shall
7 be taken into account during the taxable year in which
8 such expenditures are paid or incurred by the taxpayer.

9 “(b) SPECIAL ALLOCATION RULES.—For purposes of
10 determining the next generation broadband credit under
11 subsection (a), if the qualified equipment is capable of
12 serving rural, urban, and other subscribers, the qualified
13 expenditures shall be multiplied by a fraction—

14 “(1) the numerator of which is the sum of the
15 total potential subscriber populations within the
16 rural areas and urban areas which the equipment is
17 capable of serving with next generation broadband
18 services, and

19 “(2) the denominator of which is the total po-
20 tential subscriber population of the area which the
21 equipment is capable of serving with next generation
22 broadband services.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) CABLE OPERATOR.—The term ‘cable oper-
25 ator’ has the meaning given such term by section

1 602(5) of the Communications Act of 1934 (47
2 U.S.C. 522(5)).

3 “(2) COMMERCIAL MOBILE SERVICE CAR-
4 RIER.—The term ‘commercial mobile service carrier’
5 means any person authorized to provide commercial
6 mobile radio service as defined in section 20.3 of
7 title 47, Code of Federal Regulations.

8 “(3) COST.—

9 “(A) IN GENERAL.—The term ‘cost’ means
10 any amount that may otherwise be chargeable
11 to a capital account with respect to the pur-
12 chase, upgrade, maintenance, or installation of
13 qualified equipment, that is incurred after De-
14 cember 31, 2001 and before January 1, 2007.

15 “(B) CERTAIN SATELLITE EXPENDITURES
16 EXCLUDED.—The term ‘cost’ shall not include
17 any expenditure with respect to the launching
18 or insuring of any satellite equipment.

19 “(4) NEXT GENERATION BROADBAND SERV-
20 ICE.—The term ‘next generation broadband service’
21 means the transmission of signals at a rate of at
22 least 22,000,000 bits per second to the subscriber
23 and at least 5,000,000 bits per second from the sub-
24 scriber.

1 “(5) NONRESIDENTIAL SUBSCRIBER.—The
2 term ‘nonresidential subscriber’ means a subscriber
3 who purchases next generation broadband service
4 which are delivered to the permanent place of busi-
5 ness of such subscriber.

6 “(6) OPEN VIDEO SYSTEM OPERATOR.—The
7 term ‘open video system operator’ means any person
8 authorized to provide service under section 653 of
9 the Communications Act of 1934 (47 U.S.C. 573).

10 “(7) OTHER WIRELESS CARRIER.—The term
11 ‘other wireless carrier’ means any person (other than
12 a telecommunications carrier, commercial mobile
13 service carrier, cable operator, open video system op-
14 erator, or satellite carrier) providing current genera-
15 tion broadband services to subscribers through the
16 radio transmission of energy.

17 “(8) QUALIFIED EQUIPMENT.—

18 “(A) IN GENERAL.—The term ‘qualified
19 equipment’ means equipment capable of pro-
20 viding next generation broadband service to
21 each subscriber who is utilizing such service.

22 “(B) ONLY CERTAIN EQUIPMENT TAKEN
23 INTO ACCOUNT.—Qualified equipment shall be
24 taken into account under subparagraph (A)
25 only to the extent it—

1 “(i) is located on or within a central
2 switching office, cable hub, head end, or
3 other similar network gateway or delivery
4 point,

5 “(ii) extends from the subscriber side
6 of the point or points described in (B)(i) to
7 the outside of the unit, building, dwelling,
8 or office owned or leased by a subscriber,
9 or

10 “(iii) is located on the outside of the
11 unit, building, dwelling, or office owned or
12 leased by a subscriber.

13 “(9) RURAL AREA.—The term ‘rural area’
14 means any census tract—

15 “(A) which is not within 10 miles of any
16 incorporated or census designated place con-
17 taining more than 25,000 people and is not
18 within a county or county equivalent which has
19 an overall population density of more than 500
20 people per square mile of land,

21 “(B) that is designated as a rural enter-
22 prise community or rural empowerment zone by
23 the Secretary of Agriculture pursuant to section
24 1391, or

1 “(C) that is designated by Congress as a
2 rural area for purposes of this section.

3 “(10) RURAL SUBSCRIBER.—The term ‘rural
4 subscriber’ means a residential subscriber residing in
5 a dwelling located in a rural area or nonresidential
6 subscriber maintaining a permanent place of busi-
7 ness located in a rural area.

8 “(11) SATELLITE CARRIER.—The term ‘sat-
9 ellite carrier’ means any person using the facilities
10 of a satellite or satellite service licensed by the Fed-
11 eral Communications Commission and operating in
12 the Fixed-Satellite Service under part 25 of title 47
13 of the Code of Federal Regulations or the Direct
14 Broadcast Satellite Service under part 100 of title
15 47 of such Code to establish and operate a channel
16 of communications for point-to-multipoint distribu-
17 tion of signals, and owning or leasing a capacity or
18 service on a satellite in order to provide such point-
19 to-multipoint distribution.

20 “(12) SUBSCRIBER.—The term ‘subscriber’
21 means a person who purchases next generation
22 broadband service from a taxpayer.

23 “(13) TAXPAYER.—The term ‘taxpayer’
24 means—

25 “(A) a cable operator,

1 “(B) a commercial mobile service carrier,

2 “(C) an open video system operator, or

3 “(D) a satellite carrier, telecommunications
4 carrier, or other wireless carrier.

5 “(14) TELECOMMUNICATIONS CARRIER.—The
6 term ‘telecommunications carrier’ has the meaning
7 given such term by section 3(44) of the Communica-
8 tions Act of 1934 (47 U.S.C. 153 (44)), but—

9 “(A) includes all members of an affiliated
10 group of which a telecommunications carrier is
11 a member, and

12 “(B) does not include a commercial mobile
13 service carrier.

14 “(15) TOTAL POTENTIAL SUBSCRIBER POPU-
15 LATION.—The term ‘total potential subscriber popu-
16 lation’ means, with respect to any area and based on
17 the most recent census data, the total number of po-
18 tential residential subscribers residing in dwellings
19 located in such area and potential nonresidential
20 subscribers maintaining permanent places of busi-
21 ness located in such area.

22 “(16) URBAN AREA.—The term ‘urban area’
23 means any census tract—

24 “(A) the poverty level of which is at least
25 30% (based on the most recent census data),

1 “(B) the median family income of which
2 does not exceed—

3 “(i) in the case of a census tract lo-
4 cated in a metropolitan statistical area, 70
5 percent of the greater of the metropolitan
6 area median family income or the state-
7 wide median family income, or

8 “(ii) in the case of a census tract lo-
9 cated in a nonmetropolitan statistical area,
10 70% of the nonmetropolitan statewide me-
11 dian family income,

12 “(C) that is designated as an urban enter-
13 prise community or urban empowerment zone
14 by the Secretary of Housing and Urban Devel-
15 opment pursuant to section 1391,

16 “(D) that represents the District of Co-
17 lumbia Enterprise Zone established under sec-
18 tion 1400,

19 “(E) that is designated as a renewal com-
20 munity pursuant to section 1400E,

21 “(F) that is designated as a low-income
22 community pursuant to section 45D, or

23 “(G) that is designated by Congress as an
24 urban area for purposes of this section.

1 “(17) URBAN SUBSCRIBER.—The term ‘urban
2 subscriber’ means a residential subscriber residing in
3 a dwelling located in an urban area or nonresidential
4 subscriber maintaining a permanent place of busi-
5 ness located in an urban area.

6 “(d) DESIGNATION OF CENSUS TRACTS.—The Sec-
7 retary shall, not later than 90 days after the date of the
8 enactment of this section, designate and publish those cen-
9 sus tracts meeting the criteria described in paragraphs (9)
10 and (16) of subsection (c).”

11 (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—
12 Section 46 of the Internal Revenue Code of 1986 (relating
13 to the amount of investment credit) is amended by striking
14 “and” at the end of paragraph (2), by striking the period
15 at the end of paragraph (3) and inserting “, and”, and
16 by adding at the end the following new paragraph:

17 “(4) the broadband credit.”

18 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
19 TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the
20 Internal Revenue Code of 1986 (relating to list of exempt
21 organizations) is amended by striking “or” at the end of
22 clause (iii), by striking the period at the end of clause (iv)
23 and inserting “, or”, and by adding at the end the fol-
24 lowing new clause:

1 “(v) from sources not described in subparagraph (A),
 2 but only to the extent such income does not in any year
 3 exceed an amount equal to the credit for qualified expendi-
 4 tures which would be determined under section 48A for
 5 such year if the mutual or cooperative telephone company
 6 was not exempt from taxation.”

7 (d) CONFORMING AMENDMENT.—The table of sec-
 8 tions for subpart E of part IV of subchapter A of chapter
 9 1 of the Internal Revenue Code of 1986 is amended by
 10 inserting after the item relating to section 48 the following
 11 new item:

“Sec. 48A. Broadband credit.”

12 (e) REGULATORY MATTERS.—

13 (1) PROHIBITION.—No Federal or State agency
 14 or instrumentality shall adopt regulations or rate-
 15 making procedures that would have the effect of
 16 confiscating any credit or portion thereof allowed
 17 under section 48A of the Internal Revenue Code of
 18 1986 (as added by this section) or otherwise sub-
 19 verting the purpose of this section.

20 (2) TREASURY REGULATORY AUTHORITY.—It is
 21 the intent of Congress in providing the broadband
 22 credit under section 48A of the Internal Revenue
 23 Code of 1986 (as added by this section) to provide
 24 incentives for the purchase, installation, and connec-
 25 tion of equipment and facilities offering expanded

1 broadband access to the Internet for users in certain
2 low income and rural areas of the United States in
3 a manner that maintains competitive neutrality
4 among the various classes of providers of broadband
5 services. Accordingly, the Secretary of the Treasury
6 shall prescribe such regulations as may be necessary
7 or appropriate to carry out the purposes of section
8 48A of such Code, including—

9 (A) regulations to determine how and when
10 a taxpayer that incurs qualified expenditures
11 satisfies the requirements of section 48A of
12 such Code to provide broadband services, and

13 (B) regulations describing the information,
14 records, and data taxpayers are required to pro-
15 vide the Secretary to substantiate compliance
16 with the requirements of section 48A of such
17 Code.

18 Until the Secretary prescribes such regulations, taxpayers
19 may base such determinations on any reasonable method
20 that is consistent with the purposes of section 48A of such
21 Code.

22 (f) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section

1 shall apply to expenditures incurred after December
2 31, 2001.

3 (2) SPECIAL RULE.—The amendments made by
4 subsection (c) shall apply to amounts received after
5 December 31, 2001.

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